

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

EXPRESS DIAGNOSTICS INT'L, INC., )  
Plaintiff, )  
v. )  
BARRY M. TYDING, et al., )  
Defendants. )  
\_\_\_\_\_  
AND RELATED CROSS ACTION )  
\_\_\_\_\_ )

Case No.: C 06-1346 JW (PVT)

**ORDER RE DEFENDANT AMEDICA  
BIOTECH, INC.'S "OBJECTION TO  
DISMISSAL WITHOUT PREJUDICE"**

On April 8, 2008, Defendant and Cross-Claimant Amedica Biotech, Inc. ("Amedica") filed a document entitled "Objection to Dismissal Without Prejudice." Based on said document and the file herein,

IT IS HEREBY ORDERED that Amedica's "objection" is deemed to be a request to shorten time pursuant to Civil Local Rule 6-3 rather than an objection pursuant to Rule 72(a) of the Federal Rules of Civil Procedure, because it does not assert that this court's order of April 4, 2008, was either clearly erroneous or is contrary to law. *See* FED.R.CIV.PRO. 72(a). Instead, it asserts that its prior motion "by implication"<sup>1</sup> sought an order shortening time and requests that the court now

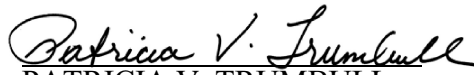
<sup>1</sup> Nothing in the Federal Rules of Civil Procedure or this court's Civil Local Rules provides for requests to shorten time "by implication."

1 schedule Amedica's motion to compel on shortened time.

2 IT IS FURTHER ORDERED that Amedica's request to shorten time is DENIED. As  
3 indicated in this court's order of April 4, 2008, requests to shorten time are subject to Local Rule 6.  
4 Neither Amedica's original motion, nor its current request, comply with the requirements of Local  
5 Rule 6. Among other things, it does not identify the substantial harm or prejudice that would occur  
6 if the court does not shorten time for the hearing.

7 IT IS FURTHER ORDERED that this ruling is without prejudice to Amedica filing a  
8 properly noticed motion to compel.<sup>2</sup>

9 Dated: 4/9/08

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11 PATRICIA V. TRUMBULL  
12 United States Magistrate Judge  
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28 <sup>2</sup> Because Amedica's memorandum of points and authorities in support of its motion has  
already been electronically filed, it need file only an amended notice of motion scheduling the motion  
for a hearing date at least 35 days out.